

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL T. WEST,

Plaintiff(s),

CASE NUMBER: 07-10269  
HONORABLE VICTORIA A. ROBERTS

v.

SALVATION ARMY, et al.,

Defendant(s).

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ORDER DENYING PLAINTIFF'S MOTION  
FOR RELIEF FROM JUDGMENT

This matter is before the Court on *pro se* Plaintiff Michael T. West's Motion for Relief from Judgment. On June 27, 2007, the Court entered an Order Granting Defendants' Motion to Dismiss Plaintiff's Complaint and a Judgment in favor of Defendants. Plaintiff seeks relief from that Judgment. For the reasons stated below, Plaintiff's motion is **DENIED**.

As a preliminary matter, Plaintiff erroneously brings his motion under the Michigan Court Rules; specifically, the catchall provision of M.C.R. §2.612(C)(1)(f), which permits a state court to relieve a party from a judgment for any reason not set forth in (C)(1)(a) through (e) which "justif[ies] relief from the operation of the judgment." The Court presumes Plaintiff intended to bring his motion under the catchall provision of M.C.R. 2.612(C)(1)(f)'s federal counterpart, FRCP 60(b)(6), which is identically worded.

Relief from judgment is only permitted under FRCP 60(b)(6) "in exceptional or extraordinary circumstances which are not addressed by the first five numbered clauses

of the Rule.” *Hopper v Euclid Manor Nursing Home, Inc.*, 867 F.2d 291, 294 (6<sup>th</sup> Cir. 1989). “[C]ourts may [only] employ subsection (b)(6) as a means to achieve substantial justice when ‘something more’ than one of the grounds contained in Rule 60(b)’s first five clauses is present.” *Id.* “The ‘something more’ . . . must include unusual and extreme situations where principles of equity *mandate* relief.” *Olle v Henry & Wright Corp.*, 910 F.2d 357, 365 (6<sup>th</sup> Cir. 1990).

Plaintiff does not identify “exceptional or extraordinary” circumstances which warrant relief. He merely restates arguments the Court previously considered and rejected and contends that the Court erred. Plaintiff’s disagreement with the Court’s ruling is an insufficient basis for relief from judgment. Therefore, Plaintiff’s motion is **DENIED**.

**IT IS SO ORDERED.**

S/Victoria A. Roberts

Victoria A. Roberts  
United States District Judge

Dated: October 16, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se plaintiff by electronic means or U.S. Mail on October 16, 2007.

s/Carol A. Pinegar  
Deputy Clerk